

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 1846 OF 2003

IN

SUIT NO.1050 OF 1996

Dilip Kumar Badlani .. Plaintiff
v/s.
Maharashtra state Financial
corporation and Ors. .. Defendants

J.B. Patel and co. for defendant no. i/b. Bhave and
Co. for proposed defendant.

Mr. Aditya Barthakar with Dr.A.K. Barthakar for
defendant no.1.

CORAM: S.U. KAMDAR, J.

DATE : 17TH JANUARY, 2005.

P.C :

1. The present chamber summons has been taken out to implead the State Bank of India as a party defendant to the suit as the State Bank of India has a second charge in respect of the properties which were mortgaged to the defendant no.1.

2. It seems that the properties which were mortgaged to defendant no.1 and the plaintiff herein

were taken possession of in exercise of power under section 29 of the Maharashtra State Financial Corporations Act, 1951 and has been sold to defendant no.1 under an agreement dated 28.12.1995. The present suit is filed challenging the said sale and seeking reversion back of the property in favour of the plaintiff herein. However relief is sought of damages of a sum of Rs.1 lac for losses suffered by the plaintiff herein. In my opinion in the present suit the State Bank of India is neither a necessary nor a proper party. Insofar as the claim of the bank pertaining to second charge on the mortgaged properties is concerned even if the property is sold by the defendant no.1 then the sale proceeds will be distributed between defendant no.1 and defendant no.2 in accordance with law i.e. in accordance with their respective charge on the properties. That issue does not arise in the present suit and therefore the Chamber Summons is misconceived.

. Chamber Summons dismissed accordingly with no order as to costs.

SD/-

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